

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the application, for reasons stated in the Reply of October 28, 2010.

Claims 128-183 are now pending, a total of 56 claims. Claims 128, 129, 154, 170, and 177 are independent.

I. Claim amendments

The claims are now amended to simplify examination. The number of claims is reduced by over 55%. Applicant left a voice mail with Examiner Kang in September requesting confirmation that cancel-and-replace with fewer claims directed to the same inventions would be acceptable. No return call was received, and thus there appears to be no objection.

Claim 129 as now pending is supported by claims 1 and 4 as originally filed, and is patentable for reasons discussed in § I of the Reply of August 14, 2008, at page 43.

Claim 154 as now pending is supported by claim 25 as originally filed, and is patentable for reasons discussed in § II of the Reply of August 14, 2008, at page 44.

Claim 170 is supported by claim 119 as originally filed, and is patentable for reasons discussed in § I of the Reply of August 14, 2008, at page 43.

Claim 177 is supported at ¶ [0051] of the application as originally filed. The Action does not discuss any analogous limitation, and thus the claim is currently patentable.

II. Restriction

Applicant notes again that the restriction paper of April 2010 was issued outside the PTO's legal authority. Acting Assistant Commissioner Bahr's memo was invalidly promulgated, is unenforceable, and is no longer in effect, for reasons discussed in the Reply of October 28, 2010, at pages 2-6. No restriction is currently pending, and there is no current duty to elect.

Applicant notes that almost all claims are closely related to claims that were determined to be non-restrictable from each other in May 2008. Applicant suggests that no restriction is now warranted.

Nonetheless, if and only if the PTO issues a restriction requirement that fully comports with all elements of restriction practice for which the PTO has legal authorization (publication

under 5 U.S.C. § 552(a), White House clearance under 44 U.S.C. §§ 3506, 3507 and 3512, White House clearance under Executive Order 12,866, White House clearance under the *Final Bulletin for Agency Good Guidance Practices*, consistency with MPEP § 808.02, not retroactive, and not obsoleted by subsequent PTO publications), and that explains the departure from the decision of May 2008, applicant will elect.

III. Conclusion

Applicant hereby authorizes the USPTO to communicate with any authorized representative concerning this application by electronic mail.

In view of these remarks, Applicant respectfully submits that the claims are in condition for allowance. Applicant requests that the application be passed to issue in due course. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. For the entire pendency of this application, the Commissioner is hereby authorized to charge any additional required fees (including all extension of time fees), or credit any overpayment, to Deposit Account No. 50-3938, Order No. 03-6171.

Respectfully submitted,
BGC PARTNERS, INC.

Dated: November 18, 2010

By: /David E. Boundy/
Registration No. 36,461

BGC Partners, Inc.
110 East 59th St.
New York, NY 10022
(212) 294-7848
(917) 677-8511 (FAX)